

CONGRESSIONAL RECORD SUMMARY

Wednesday, March 13, 2002

SENATE

S. 517. Energy Policy Act:

Senate continued consideration of S. 517, to authorize funding for the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, taking action on the following amendments proposed thereto:

Pages S 1805-40, S 1841-50, D 220

Pending:

Daschle/Bingaman Further Modified Amendment No. 2917, in the nature of a substitute.

Pages S 1805, D 220

A unanimous-consent agreement was reached providing for the recognition of Senator Thomas to offer an amendment with respect to reliability, on Thursday, March 14, 2002.

Pages S 1867, D 220

H.R. 2356. Campaign Finance Reform:

Senate began consideration of the motion to proceed to consideration of H.R. 2356, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

Pages S 1840, D 220-1

A motion was entered to close further debate on the motion to proceed to consideration of the bill and, in accordance with the provisions of the Standing Rules of the Senate, a cloture vote will occur on Friday, March 15, 2002.

Pages S 1840, D 221

Subsequently, the motion to proceed to consideration of the bill was withdrawn.

Pages S 1840, D 221

Nomination Confirmed:

Senate confirmed the following nomination:

Jeanette J. Clark, of the District of Columbia, to be an *Associate Judge of the Superior Court of the District of Columbia* for the term of fifteen years.

Pages S 1870, D 221

Nominations Received:

Senate received the following nominations:

David Phillip Gonzales, of Arizona, to be *United States Marshal for the District of Arizona* for the term of four years.

Edward Zahren, of Colorado, to be *United States Marshal for the District of Colorado* for the term of four years.

Charles M. Sheer, of Missouri, to be *United States Marshal for the Western District of Missouri* for the term of four years.

Gorden Edward Eden, Jr., of New Mexico, to be *United States Marshal for the District of New Mexico* for the term of four years.

John Lee Moore, of Texas, to be *United States Marshal for the Eastern District of Texas* for the term of four years.

William P. Kruziki, of Wisconsin, to be *United States Marshal for the Eastern District of Wisconsin* for the term of four years.

Pages S 1869, D 221

Committee Meeting:

Committee on the Judiciary: Subcommittee on Technology, Terrorism, and Government Information concluded hearings to examine the worldwide connection between drugs and terrorism, focusing on identification and investigation of criminal and terrorist groups.

Page D 223

Committee Meetings For Thursday, March 14, 2002:

Committee on Appropriations: @ 2:00 p.m. Subcommittee on Treasury and General Government, to hold hearings on proposed budget estimates for fiscal year 2003 for the Department of the Treasury. SD-138.

Committee on Banking, Housing, and Urban Affairs: @ 10:00 a.m. To resume oversight hearings to examine accounting and investor protection issues raised by the Enron situation, and other public companies, focusing on the accounting profession, audit quality and independence, and formulation of accounting principles. SD- 538.

Page D 227

Committee on the Judiciary: @ 10:00 a.m. To hold hearings to examine competition, innovation, and public policy concerning digital creative works. SD-106.

Committee on the Judiciary: @ 2:00 p.m. Full Committee, business meeting to consider **S. 1356**, to establish a commission to review the facts and circumstances surrounding injustices suffered by European Americans, Europeans Latin Americans, and European refugees during World War II; **S. 924**, to provide reliable officers, technology, education, community prosecutors, and training in our neighborhoods; *and pending nominations*. SD-106.

Page D 228

Remark:

High-Tech Task Force.

"... In the area of legal reform, there are several areas--especially class actions. We have these class action lawsuits filed all over the country. The diversity of that jurisdiction, at the option of the defendant, ought to be more easily removed to Federal court to get a better, more expedited and fair judgment..."

Allen

Pages S 1800-5

HOUSE

Bills Introduced:

H.R. 3959. A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to require the Immigration and Naturalization Service to verify whether an alien has an immigration status rendering the alien eligible for service in the Armed Forces of the United States and to achieve parity between the immigration status required for employment as an airport security screener and the immigration status required for service in the Armed Forces, and to amend the Immigration and Nationality Act to permit naturalization through active-duty military service during Operation Enduring Freedom; to the Committee on the Judiciary, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Lofgren

Page H 906

H.R. 3961. A bill to provide additional resources to States to eliminate the backlog of unanalyzed rape kits and to ensure timely analysis of rape kits in the future; to the Committee on the Judiciary.

Nadler

Page H 906

H.R. 3962. A bill to limit the authority of the Federal Government to acquire land for certain Federal agencies in counties in which 50 percent or more of the total acreage is owned by the Federal Government and under the administrative jurisdiction of such agencies; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Peterson

Page H 907

H.R. 2341 - Class Action Fairness Act:

The House passed H.R. 2341, to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, and to allow the application of the principles of Federal diversity jurisdiction to interstate class actions by a yea- and-nay vote of 233 yeas to 190 nays, Roll No. 62.

Pages H 885-86, D 223-224

Rejected the Sandlin of Texas motion to recommit the bill to the Committee on the Judiciary with instructions to report it back with an amendment that prohibits defendants who are knowing participants in conspiracies to hijack aircraft or commit acts of terrorism to remove a class action to Federal court by a recorded vote of 191 ayes to 235 noes, Roll No. 61.

Pages H 884-85, D 223

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, **H. Rept. 107-370**, was considered as an original bill for the purpose of amendment.

Pages H 857, D 224

H.R. 2341 - Class Action Fairness Act (Cont'd.):

Agreed To:

Nadler amendment No. 2, printed in H. Rept. 107-375, as modified, that prohibits any order, opinion, or record of the court from being sealed or subjected to a protective order unless the court finds that the sealing or protective order is narrowly tailored, consistent with the protection of public health and safety,

and is in the public interest.

Pages H 859-60, D 224

Keller amendment No. 4, printed in H. Rept. 107-375, as modified, that requires courts with jurisdiction over a plaintiff class action to disclose their fees to each plaintiff if there is a settlement or judgment for the plaintiffs.

Pages H 863, D 224

Hart amendment No. 9, printed in H. Rept. 107-375, as modified, that directs the Judicial Conference of the United States with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts to prepare and transmit to the Committees on the Judiciary of the Senate and House of Representatives a report on class action settlements in the Federal courts, within 12 months after the date of enactment.

Pages H 879-82, D 224

Rejected:

Waters amendment No. 3, printed in H. Rept. 107-375, as modified, that sought to deem a party in a class action suit as admitting any fact with respect to which a discovery order was issued when that party withholds or destroys material subject to the order (rejected by a recorded vote of 174 ayes to 251 noes, Roll No. 56).

Pages H 872, D 224

Lofgren amendment No. 5, printed in H. Rept. 107-375, as modified, that sought to strike the provision that deems a civil action to be a class action if the plaintiff acts for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general (rejected by a recorded vote of 194 ayes to 231 noes, Roll No. 57).

Pages H 872-73, D 224

Conyers amendment No. 6, printed in H. Rept. 107-375, as modified, that sought to treat a foreign corporation which acquires a domestic corporation as being incorporated in the State where the domestic corporation was organized (rejected by a recorded vote of 202 ayes to 223 noes, Roll No. 58).

Pages H 873-74, D 224

Jackson-Lee amendment No. 7, printed in H. Rept. 107-375, as modified, that sought to prohibit a party from removing a class action to a district court if the party has been found by a court to have knowingly altered, destroyed, or misrepresented records or documents (rejected by a recorded vote of 177 ayes to 248 noes, Roll No. 59).

Pages H 882-83, D 224

Frank amendment No. 8, printed in H. Rept. 107-375, as modified, that sought to require Federal courts which refuse to certify a class action under rule 23 of the Federal rules of Civil Procedure to remand all aspects of the action to the State court from which it was removed (rejected by a recorded vote of 191 ayes to 234 noes, Roll No. 60).

Pages H 883-84, D 224

H.R. 2341 - Class Action Fairness Act (Cont'd.):

"...So I urge my colleagues on the other side to join the many who will join us in rejecting the idea that somehow we have to have a continuation of a simply bad Federal procedural rule that would allow these cases to be brought into Federal court when all we are trying to do is to correct a very serious problem of abuse. How does the abuse occur? The plaintiffs' attorneys, and they are good attorneys, they choose the jurisdiction in this country that they think best suits their likelihood of success in the case. That happens in

every lawsuit. But in class action lawsuits involving hundreds of thousands or millions of plaintiffs, they can choose from 4,000 different jurisdictions in the country, and a handful of jurisdictions over and over and over again get the cases brought there because those judges are known to certify these classes far more readily than anybody else. Allowing removal of the case by either the plaintiffs or the defendants to Federal court will end this abuse because you will have a more uniform, more standard application of what it takes to certify a class..." (Goodlatte, page H 842)

"...H.R. 2341 takes important steps to restore its dignity. First, it would implement necessary safeguards against these and other unwieldy settlements that give lawyers millions of dollars in fees and individual class members a small fraction of any settlement or award. Secondly, it would expand Federal diversity jurisdiction over interstate class actions to help curb the serious abuses that continue to take an enormous toll on our society. A quick examination of the class action world reveals that the scales of justice are unable to balance the interests of class action lawyers and their clients. Currently, attorneys lump thousands and sometimes millions of speculative claims into one class action and then race to any available State courthouse in the hopes of a rubber stamp settlement. Too often these settlements result in millions of dollars of attorneys' fees and a mere pittance or coupons for class members in exchange for an agreement not to sue in the future. While these class actions serve no public policy or benefit to class members, they are an enormous windfall for their attorneys..." (Sensenbrenner, page H 847)

"...My friend from Virginia has suggested, I thought I heard him say that this is a consumer-friendly piece of legislation. In the interest of all the Members knowing about the objections to this bill, I bring to them communications from the Consumer Federation of America, which urges that we oppose the measure, indicating that this bill will create numerous barriers to participating in class actions by permitting defendants to remove most State class action suits to Federal court and will clog the already-crowded Federal court system..." (Conyers, page H 848)

H. Res. 367, the rule that provided for consideration of the bill was agreed to by voice vote. Earlier, agreed to order the previous question by a yea-and-nay vote of 221 yeas to 198 nays, Roll No. 55.

Pages H 846, D 224

Committee Meetings:

Committee on Appropriations: Subcommittee on Commerce, Justice, State and Judiciary held a hearing on Supreme Court. Testimony was heard from the following Associate Justices of the Supreme Court: Anthony M. Kennedy; and Clarence Thomas.

Page D 225

Committee on the Budget: Began markup of the Fiscal Year 2003 Budget Resolution.

Committee on Financial Services: Held a hearing on **H.R. 3763**, Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002. Hearings continue March 20.

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Committee Meetings for Thursday, March 14, 2002:

Committee on Appropriations: @ 10: 00 a.m. Subcommittee on Interior, oversight hearing on Bureau of Indian Affairs, and Office of Special Trustee for American Indians. B-308 Rayburn.

Committee on Appropriations: @ 10:00 a.m. Subcommittee on Transportation, on *Member of Congress*. 2358 Rayburn.

Committee on Appropriations: @ 10:00 a.m. & 2:00 p.m. Subcommittee on Treasury, Postal Service and

General Government on OMB, and on Executive Office of the President. 2359 Rayburn.

Committee on Energy and Commerce: @ 10:00 a.m. Subcommittee on Oversight and Investigations, to continue hearings on the Financial Collapse of Enron Corp., *focusing on Enron's inside and outside counsel*. 2322 Rayburn.

Committee on Government Reform: @ 10:00 a.m. To consider the following: **H.R. 3340**, *to amend title 5, United States Code, to allow certain catch-up contributions to the Thrift Savings Plan to be made by participants age 50 or over*; **H.R. 3921**, *Acquisition Streamlining Improvement Act*; *the Federal Property Asset Management Reform Act of 2002*; *the Freedom to Telecommute Act of 2002*; *the Digital Tech Corps Act of 2001*; and a draft report entitled "Justice Undone: Clemency Decisions in the Clinton White House." 2154 Rayburn.

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Committee on the Judiciary: @ 9:00 a.m. Subcommittee on Courts, the Internet, and Intellectual Property, oversight hearing on "Patent Law and Non-Profit Research Collaboration." 2141 Rayburn.

Committee on the Judiciary: @ 2:00 p.m. Subcommittee on Crime, hearing on the Office of Justice Programs Part Three-Waste, Fraud and Abuse. 2237 Rayburn.

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Committee on Ways and Means: @ 9:30 p.m. To mark up **H.R. 3669**, *Employee Retirement Savings Bill of Rights*." 1100 Longworth.

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Remark:

Enhanced Border Security and Visa Entry Reform Act of 2002.

Rangel

Page E 337-338

Next SENATE MEETING: Thursday, 9:30 a.m., March 14, 2002.

Next HOUSE MEETING: Thursday, 10:00 a.m., March 14, 2002.

OLA: S. Schwarz, A. Santos

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